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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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In the Matter of

**Advanced Television Systems
and Their Impact Upon the
Existing Television Broadcast
Service**

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MM Docket No. 87-268

TO: The Commission

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REPLY COMMENTS OF A.C. NIELSEN COMPANY

A.C. Nielsen ("Nielsen"), through its attorneys, hereby provides its Reply Comments on some of the issues raised in Comments filed with the Federal Communications Commission ("FCC" or "Commission") on November 20, 1995, in response to the Commission's *Fourth Further Notice of Proposed Rule Making and Third Notice of Inquiry* in the above-referenced proceeding.

I. Background

1. Nielsen provides "rating" or audience measurement services, that estimate the size and demographic composition of television and cable audiences, to members of the broadcast television, advertising and cable industries. Nielsen's ability to provide its ratings service depends upon its ability to compile its data through Source Identification ("SID") Codes embedded on Lines 20 or 22 of the broadcast program. SID Codes are unique to each program and identify the program's originating source, and the date and time of the program's origination. Although embedded in the transmitted broadcast, SID Codes cannot be seen by viewers because the Codes

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are transmitted either in Line 20 within the Vertical Blanking Interval ("VBI"), or Line 22, the first line of the active video, but in either case, in the "overscan" area of the television picture. Because Nielsen's continued ability to transmit data in Lines 20 and 22 is critical to its ability to provide its ratings or measurement services to the broadcast television, advertising and cable industries, Nielsen submitted Comments responding to the *Notice* in this proceeding.

II. Summary of Nielsen's Comments

2. In its Comments, Nielsen urged the Commission to refrain from making any substantive change to the currently-applicable requirement that cable systems carry Nielsen's SID Codes when they carry encoded programming, noting that ratings services, like Nielsen's, are critically important to the continuing viability of broadcast or "free" television. Nielsen argued that substantial modifications or equipment are not necessary to allow cable systems to carry Nielsen's SID Codes in a digital environment, and that no adverse effect would follow from the carriage of Nielsen's digitized SID Codes. Nielsen asserted that its position is consistent with the Commission's previous determinations that Nielsen's SID Codes are program-related and therefore entitled to must-carry status.

III. Reply Comments

3. While none of the Comments submitted in this proceeding specifically addressed the carriage status of Nielsen's SID Codes, several Commenters discussed the general issue of the carriage of digital data. InterMedia Partners ("InterMedia") filed Comments stating that "cable operators are only obligated to carry a broadcaster's 'primary video' and related closed-captioning transmission on the Vertical Blanking Interval." Comments of InterMedia at pp. 5-6. Similarly, General Instrument Corporation ("GI") notes in its Comments "there is long-standing policy and

recent statutory authority that permits cable operators to strip out nonprogram-related ancillary data on the broadcast signal” Comments of GI at p. 19. The Electronic Industries Association and the Advanced Television Committee (“EIA and the Committee”) also filed Comments emphasizing the importance of the requirement that cable operators continue to carry broadcasters’ “primary video,” as opposed to nonprogram-related material, in a digital environment. See Comments of EIA and the Committee at p. 10.

4. As Nielsen explained in its Comments, the Commission has already determined that Nielsen’s Codes “are program-related because they constitute information intrinsically related to the particular program received by the viewer” and are therefore entitled to must-carry status. See *In the Matter of Implementation of the Cable Television Consumer Protection and Competition Act of 1992*, MM Docket No. 92-259, *Memorandum Opinion and Order*, 9 FCC Rcd. 6723 (1994). The Commission has also stated that SID Codes are “clearly related to the program material within which [they are] transmitted and to the operation of a television station’s primary program service.” See Letter from James C. McKinney, Chief, Mass Media Bureau, to Burton Greenberg (July 18, 1985). Accordingly, Nielsen’s Codes are an intrinsic part of the broadcaster’s “primary video” and should continue to be entitled to must-carry status during and after the transition to digital broadcasting.

5. UVTV also filed Comments urging the Commission to “adopt a rule which limits must carry obligations to a single video transmission comprising the broadcaster’s primary video stream.” See Comments of UVTV at p. 3. While Nielsen recognizes that certain types of digital data may not be entitled to must-carry status, allowing cable operators to strip SID Codes would undermine the integrity of Nielsen’s ratings as well as the ability of viewers to have their

interests reflected in programming. Nielsen's position on the importance of carriage of the SID Codes is supported by the Commission's previous determinations that the Codes are entitled to must-carry status. The transition to digital television does not alter this determination in any way.

6. InterMedia expresses the concern in its Comments that "it will be prohibitively expensive for cable operators to purchase the sophisticated equipment necessary to separate out the various packetized information streams that will comprise the digital signals transmitted by broadcasters." Comments of InterMedia at pp. 4-5. Nielsen reiterates that carriage of its digital SID Codes by cable systems can be accomplished without requiring substantial changes to a system's infrastructure or requiring significant investment by the system operator. In fact, as explained in Nielsen's Comments, digital transmission equipment manufacturers currently are designing the technology needed for the digital carriage of closed captioning into digital transmission equipment; expanding the capability to include the transmission of Nielsen's Codes now being transmitted on lines 20 and 22 will require little or no additional effort or expense.

7. Finally, Ameritech News Media Enterprises, Inc. ("Ameritech") pointed out in its Comments that the purpose of the must-carry rules is to ensure the availability of free, over-the-air broadcasting. See Comments of Ameritech at p. 6. Nielsen supports Ameritech's Comments. Nielsen emphasizes that its SID Codes are a crucial underpinning of the American free television system. Nielsen's ratings are important foundations of the advertiser-supported broadcast and cable program industries, both of which utilize ratings to judge the acceptance of broadcast and cable program offerings among viewers and to establish audiences "delivered" to the advertiser through their viewing of the program and advertisements. Accordingly, the Commission has

found that the Codes are an “integral part of the associated program” and that ratings are “of interest to virtually every broadcaster.” See Letter from Roy J. Stewart, Chief, Mass Media Bureau, to Grier C. Raclin (November 22, 1989).


IV. Conclusion

8. A.C. Nielsen strongly urges the Commission to continue its policy of entitling SID Codes to must-carry status, during and after the transition to digital technology. Requiring carriage of Nielsen’s SID Codes is consistent with Commission precedent and will support the American free television system.

WHEREFORE, Nielsen urges the Commission to adopt regulations in accordance with the opinions and arguments expressed in these Reply Comments, in addition to its Comments in this proceeding.

Respectfully submitted,

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January 16, 1996

CERTIFICATE OF SERVICE

I, Judith K. Harris, a secretary in the law firm of Gardner, Carton & Douglas, certify that I have this 16th day of January, 1996, caused to be sent by first-class U.S. mail, postage-prepaid, a copy of the foregoing Reply Comments of A.C. Nielsen Company to the following:

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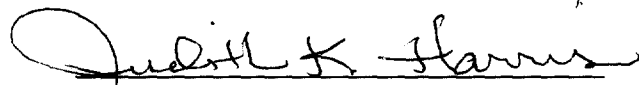
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